

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**ASSOCIATED ACCEPTANCE, INC., §
d/b/a RUSH TRUCK INSURANCE §
SERVICES §**

Plaintiff, §

-v- §

CIVIL ACTION NO. 5:20-cv-236

**ALEXANDRA M. AMESCUA, §
MARSH USA, INC. d/b/a §
MARSH & MCLENNAN §
COMPANIES; MARSH & §
MCLENNAN AGENCY, LLC d/b/a §
CLINE WOOD AGENCY, INC. §**

Defendants. §

DEFENDANTS' NOTICE OF REMOVAL

Defendants Marsh USA, Inc. d/b/a Marsh & McLennan Companies (“Marsh”)¹ and Marsh & McLennan Agency, LLC d/b/a Cline Wood Agency, Inc. (“Cline Wood”), by and through the undersigned counsel, files this Notice of Removal of this action from the 285th Judicial District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division, the District and Division encompassing the state court in which this action is pending. This Notice of Removal is filed pursuant to 28 U.S.C. §§1441 and 1446. In support thereof, Defendant respectfully shows this Court as follows:

A. State Court Action

1. Defendants have been sued in the case styled *Associated Acceptance, Inc. d/b/a*

Rush Trucking Insurance Services v. Alexandra M. Amescua, Marsh USA, Inc. d/b/a Marsh

¹ Corporate Defendants Marsh and Cline Wood were improperly named, but the corporate entities Marsh & McLennan Agency, LLC and Marsh USA, Inc. were served with the State Court Action.

& McLennan Companies; Marsh & McLennan Agency, LLC d/b/a Cline Wood Agency, Inc., Cause No. 2020-CI-03574, pending in the 285th Judicial District of Bexar County, Texas (“State Court Action”).

B. Procedural Requirements

2. This action is properly to this Court, as the State Court Action is pending within this district and division pursuant to 42 U.S.C. §1446(a). *See* 28 U.S.C. §124(d)(4).

3. Pursuant to 28 U.S.C. §1446(a), an index of all documents filed in the State Court Action, and the date of filing, is provided in and incorporated hereto as Exhibit A.

4. All pleadings, process, orders, and other filings in the State Court Action, including the docket, are attached to this Notice of Removal as required by 28 U.S.C. § 1446(a).

C. Timeliness of Removal

5. On February 20, 2020, Plaintiff Associated Acceptance, Inc. d/b/a Rush Trucking Insurance Service (“Plaintiff”) filed its Original Petition and Application for Ex Parte Temporary Restraining Order and Application for Temporary Injunction and Requests for Disclosure (“Original Petition”) in the State Court Action.

6. This removal is timely as it is filed within thirty (30) days after Defendants were served with the Original Petition on February 25, 2020. 28 U.S.C. §1446(b)(1). All served Defendants join in this removal.

D. Grounds for Removal

7. This Court has original jurisdiction over this case under 28 U.S.C. §1332 because this is a civil action between citizens of different states where the matter in controversy exceeds \$75,000, exclusive of interest and costs. Therefore, this action is one that may be removed to this Court pursuant to the provisions of 28 U.S.C. §1441(a).

a. The amount in controversy exceeds the federal minimum jurisdictional requirements.

8. Plaintiff asserts several claims in its Original Petition, including contract claims, tort claims, and statutory violations.² Plaintiff asserts monetary damages of more than \$130,000,³ and seeks to recover actual damages, compensatory damages, and exemplary damages.⁴ Accordingly, the amount in controversy in this matter meets and exceeds the federal jurisdiction minimum of \$75,000.

b. Complete diversity exists.

9. As alleged in paragraph 2 of the Original Petition, Plaintiff was at the time of filing this action and, on information and belief, still is a corporation formed and existing under the laws of the State of Texas and having its principal place of business and registered office in Bexar County, Texas.

10. As alleged in paragraphs 4 and 5 of the Original Petition, Defendants were at the time of filing this action and are currently corporations duly formed and existing under the laws of the State of Delaware.

11. Defendants' principal place of business is in the State of New York.

12. Accordingly, for diversity purposes and at all times relevant to this removal, Defendants Marsh and Cline Wood are and were citizens of Delaware and New York. 28 U.S.C. §1332(c).

² Plaintiff's Original Petition, pg. 9-14.

³ Plaintiff's Original Petition, Exhibit D, pg. 3

⁴ Plaintiff's Original Petition, pg. 19-20.

E. Notice to Parties and State Court

13. Upon filing of this Notice with the federal district court, Defendants will give notice of this filing to Plaintiff, and will also file a copy of this Notice with the Clerk of the 285th Judicial District Court of Bexar County, Texas, where the action is currently pending.

CONCLUSION

For the foregoing reasons, Defendants respectfully request that further proceedings in the case styled *Associated Acceptance, Inc. d/b/a Rush Trucking Insurance Services v. Alexandra M. Amescua, Marsh USA, Inc. d/b/a Marsh & McLennan Companies; Marsh & McLennan Agency, LLC d/b/a Cline Wood Agency, Inc.*, Cause No. 2020-CI-03574, pending in the 285th Judicial District of Bexar County, Texas, be discontinued, and that this suit be removed to the United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

By: /s/ Patrick S. Richter
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served on the following counsel of record on the 26th day of February 2020 via the court's e-filing system.

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